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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,383	07/30/2003	Benny E. Steffens	SGO2768	8342
30245	7590	05/15/2007	EXAMINER	
ANTHONY EDW. J CAMPBELL			BECKER, DREW E	
PO BOX 160370			ART UNIT	PAPER NUMBER
AUSTIN, TX 78716			1761	
MAIL DATE		DELIVERY MODE		
05/15/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/630,383	STEFFENS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Drew E. Becker	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 02 April 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-11 and 14-20 is/are pending in the application.
  - 4a) Of the above claim(s) 1-10 and 20 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11, 14-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of group II in the reply filed on 10/18/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-10 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 15 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear whether all of the listed ingredients of claims 15 and 19 are required, or not. Sodium bicarbonate and yeast were commonly known leavening alternatives. It is not clear whether the listed ingredients are alternatives, or whether they are all required.

***Claim Rejections - 35 USC § 103***

Art Unit: 1761

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker [Des. 385,686] in view of Chiang et al [Pat. No. 6,491,959].

Parker teaches a cylindrical rolled-up snack chip (Figure 1). Phrases such as "flattening", "removing", and "cooling" are merely preferred methods of making the claimed product. Parker does not recite specific ingredients such as flour, oil, salt, and seasoning (claim 11), the seasoning being onions (claim 14), sodium bicarbonate (claim 15), the product having been baked (claim 16), sunflower oil (claim 17), and corn flour (claim 18). Chiang et al teach a snack chip made with dough comprising corn flour, sunflower oil, salt, seasoning such as onion, sodium bicarbonate, and baking (column 10, line 11; column 12, line 62; column 13, line 66 to column 14 , line 30; column 16, line 35). It would have been obvious to one of ordinary skill in the art to incorporate the ingredients and baking of Chiang et al into the invention of Parker since both are directed to snack-chip products, since Parker simply did not describe the ingredients used for the snack chip, and since Chiang et al teach that these ingredients were commonly used to make snack chips. Regarding claim 19, "enriched wheat flour" was not chosen as the type of flour in parent claim 18. Therefore, the details of claim 19 are moot.

6. Claims 11 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kronenberger [Pat. No. 6,235,326] in view of Chiang et al [Pat. No. 6,491,959]. Kronenberger teaches a cylindrical rolled-up snack chip (Figure 15). Phrases such as "flattening", "removing", and "cooling" are merely preferred methods of making the claimed product. Kronenberger does not recite specific ingredients such as flour, oil, salt, and seasoning (claim 11), the seasoning being onions (claim 14), sodium bicarbonate (claim 15), the product having been baked (claim 16), sunflower oil (claim 17), and corn flour (claim 18). Chiang et al teach a snack chip made with dough comprising corn flour, sunflower oil, salt, seasoning such as onion, sodium bicarbonate, and baking (column 10, line 11; column 12, line 62; column 13, line 66 to column 14 , line 30; column 16, line 35). It would have been obvious to one of ordinary skill in the art to incorporate the ingredients and baking of Chiang et al into the invention of Kronenberger since both are directed to snack-chip products, since Kronenberger simply did not describe the ingredients used for the snack chip besides it being a corn-based material (column 4, line 2), and since Chiang et al teach that these ingredients were commonly used to make snack chips. Regarding claim 19, "enriched wheat flour" was not chosen as the type of flour in parent claim 18. Therefore, the details of claim 19 are moot.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 11 and 14-19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DREW BECKER  
PRIMARY EXAMINER

5/11/09